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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,192	11/07/2001	Sachiko Nishiura	Q67062	4888

7590 08/01/2006  
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Washington, DC 20037-3202

EXAMINER

SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/986,192	<b>Applicant(s)</b> NISHIURA, SACHIKO	
	<b>Examiner</b> Justin E. Shepard	<b>Art Unit</b> 2623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-10 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries in view of Messenger in further view of Waki.

Referring to claim 1, Fries discloses a digital broadcast receiving method for receiving broadcast data in which a plurality of files are broadcast with a plurality of elementary streams for audio and video (column 4, lines 8-10), the method comprising: initiating reception of a file; acquiring automatically and retaining file (column 6, lines 43-48); and using said retained file to create video and audio output (column 4, lines 20-22).

Fries does not disclose a method for determining in advance a hierarchical number of said plurality of files to be retained; initiating reception of said plurality of files; acquiring a start file, which is a first file of said plurality of files from a determined elementary stream and retaining said start file; and

acquiring automatically and retaining said plurality of files linked by anchors within each of said plurality of files ranging from said start file to said hierarchical number of files by analyzing said start file.

Messenger discloses a method for determining in advance a number of said plurality of files to be retained; initiating reception of said plurality of files; and

acquiring automatically and retaining said plurality of files linked within each of said plurality of files ranging from said start file to said hierarchical number of files by analyzing said file (column 27, lines 4-16).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of knowing the number of files, as taught by Messenger, to the method disclosed by Fries. The motivation would have been to enable the system to retrieve any files missed in the initial receiving (Messenger: column 27, lines 13-16).

Fries and Messenger do not disclose a method for acquiring a start file, which is a first file of said plurality of files from a determined elementary stream and retaining said start file; wherein the files are linked by anchors; and wherein the files are arranged in a hierarchical manner.

Waki discloses a method for acquiring a start file, which is a first file of said plurality of files from a determined elementary stream and retaining said start file (column 13, lines 30-42); wherein the files are linked by anchors (figure 6; module ID); and wherein the files are arranged in a hierarchical manner (figure 3; 61-65).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the start file and the hierarchical files, as taught by Waki, to the method

disclosed by Fries and Messenger. The motivation would have been to shorten the time needed to receive the files (Waki: column 13, lines 42-44).

Claims 2, 5, and 8 are rejected on the same grounds as claim 1.

Claims 3, 4, 6, 7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries in view of Messenger in further view of Waki as applied to the claims above, and further in view of Brotz.

Referring to claim 3, Fries, Messenger, and Waki do not disclose a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received.

Brotz discloses a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received (column 11, lines 5-9; Note: in the specification page 13, line 13; an example is given where a trigger is something identifying that there is a "version-up of the file," which is what the reference teaches).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Fries, Messenger, and Waki. The motivation would have been

to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 6 and 9 are rejected on the same grounds as claim 3.

Referring to claim 4, Fries, Messenger, and Waki do not disclose a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained.

Brotz discloses a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained (column 11, lines 5-9; Note: reflecting the trigger is interpreted as applying it to the given file).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Fries, Messenger, and Waki. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 7 and 10 are rejected on the same grounds as claim 4.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS



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